

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No.:	10/757,805	Confirmation No.:	5411
Applicant(s):	Jacob Richter	Group Art Unit:	3773
		Examiner:	Vy Q. BUI
Filed:	January 14, 2004	Customer No.:	75004
For:	LONGITUDINALLY FLEXIBLE STENT		

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Supplemental Information Disclosure Statement is filed in accordance with 37 C.F.R. §§ 1.56, 1.97 and 1.98. The items listed on Substitute Form PTO-1449, a copy of which is enclosed, are made of record to assist the Patent and Trademark Office in its examination of this application. Pursuant to the provisions of M.P.E.P. §609, it is respectfully requested that the Examiner return a copy of the enclosed Substitute Form PTO-1449, marked as being considered and initialed by the Examiner, to the undersigned with the next official communication.

This submission does not represent that a search has been made or that the information cited is, or is considered to be, material to patentability as defined in 37 C.F.R. §1.56(b), or that the information cited is, or is considered to be, "prior art" within the meaning of 35 U.S.C. §§ 102 and 103, or that the information cited has been thoroughly reviewed, or that any relevance of any portion of a reference is intended.

Applicant reserves the right to establish that any information cited is not "prior art" and that the date of publication indicated for a cited item is in fact different than that which is indicated. The Examiner is respectfully requested to fully consider the items and to independently ascertain their teaching(s).

1. ☐ For each of the following items listed on the enclosed copy of Substitute Form PTO-1449 that is not in the English language, an English language translation of that item or a portion thereof or a concise explanation of the relevance of that item is enclosed:
2. ☐ For each of the following items listed on the enclosed copy of Substitute Form PTO-1449 that is not in the English language, a concise explanation of the relevance of that item is incorporated in the specification of the above-identified application.
3. ☐ Any copy of the items listed on the enclosed copy of Substitute Form PTO-1449 that is not enclosed with this Information Disclosure Statement was previously cited by or submitted to the Patent and Trademark Office in application Serial No. _____, filed _____.
4. ☐ No fee is due under 37 C.F.R. § 1.17(p) for this Information Disclosure Statement, because it is being filed in compliance with:
 - ☐ 37 C.F.R. § 1.97(b)(1), within three months of the filing date of a national application other than a CPA; or
 - ☐ 37 C.F.R. § 1.97(b)(2), within three months of the date of entry into the national stage as set forth in § 1.491 in an international application; or
 - ☐ 37 C.F.R. § 1.97(b)(3), before the mailing date of a first Office action on the merits; or
 - ☐ 37 C.F.R. § 1.97(b)(4) before the mailing date of a first office action after the filing of an RCE under § 1.114.
5. ☐ No fee is due under 37 C.F.R. § 1.17(p) for this Information Disclosure Statement, because:
it is being filed in compliance with 37 C.F.R. § 1.97(c), after the period specified in paragraph 4 above but before the mailing date of a final action or a Notice of Allowance (where there has been no prior final action), and is accompanied by one of the certifications pursuant to 37 C.F.R. § 1.97(e) set forth in paragraph 9 below.

6. ☒ A fee is due under 37 C.F.R. § 1.17(p) for this Information Disclosure Statement, because it is being filed in compliance with 37 C.F.R. § 1.97(c), after the period specified in paragraph 4 above, but before the mailing date of a final action or a notice of allowance (where there has been no prior final action):
- ☐ A check in the amount of \$180.00 is enclosed in payment of the fee.
- ☒ Charge the fee to Deposit Account No. **50-4387**, Order No. 92077.003US9.
7. ☐ A fee is due under 37 C.F.R. § 1.17(p) for this Information Disclosure Statement, because it is being filed in compliance with 37 C.F.R. § 1.97(d), after the mailing date of a final action or a notice of allowance, whichever comes first, but before payment of the issue fee, and is accompanied by:
- a. one of the certifications pursuant to 37 C.F.R. § 1.97(e) set forth in paragraph 9 below; and
- b. the fee due under 37 C.F.R. § 1.17(p) which is paid as set forth in paragraph 11 below.
8. ☐ This Information Disclosure Statement is being filed in compliance with:
- a. ☐ 37 C.F.R. § 1.313(b)(3) or § 1.313(c)(1), after the issue fee has been paid and information cited in this Information Disclosure Statement may render at least one claim unpatentable and is accompanied by the attached Petition To Withdraw Application From Issue and fee pursuant to 37 C.F.R. § 1.17(h);
- b. ☐ 37 C.F.R. § 1.313(c)(2) or § 1.313(c)(3), after the issue fee has been paid and information cited in this Information Disclosure Statement is to be considered in a Request for Continued Examination (RCE) or a Continuation application upon abandonment of the instant application and is accompanied by the attached Petition To Withdraw Application From Issue and fee pursuant to 37 C.F.R. § 1.17(h).
- c. ☐ The fee due under 37 C.F.R. § 1.17(h) is paid as set forth in paragraph 11 below.
9. ☐ I hereby certify that each item of information contained in this Information Disclosure Statement was first cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Information Disclosure Statement.
- ☐ I hereby certify that no item of information in the Information Disclosure Statement filed herewith was cited in a communication from a foreign patent office in a counterpart foreign application or, to my knowledge after making

reasonable inquiry, was known to any individual designated in § 1.56(c) more than three months prior to the filing of this Information Disclosure Statement.

10. ☐ This document is accompanied by ☐ a Search Report ☐ Communication which was cited in a corresponding ☐ PCT or ☐ Foreign counterpart application.
11. ☐ A check in the amount of \$_____ is enclosed in payment of the fees due under 37 C.F.R. §§ 1.17(h) and 1.17(p).
- ☒ Charge the fees due under 37 C.F.R. §§ 1.17(h) and 1.17(p) to Deposit Account No. **50-4387**, Order No. 92077.003US9.
- ☒ The Commissioner is hereby authorized to charge any additional fees which may be required for this Information Disclosure Statement, or credit any overpayment to Deposit Account No. **50-4387**, Order No. 92077.003US9.

Remarks

Applicant hereby submits the attached Supplemental Information Disclosure Statement pursuant to the recent Federal Circuit opinion in McKesson Info. Solutions, Inc. v. Bridge Med., Inc., 487 F. 3d 897 (Fed. Circ. 2007), and the duty of disclosure set forth in 37 C.F.R. § 1.56. Pursuant to McKesson, the references contained in the Supplemental Information Disclosure Statement include Office Action(s) and/or Notice(s) of Allowance from co-pending related applications. The Supplemental Information Disclosure Statement also includes prior art not previously cited.

Respectfully submitted,
CADWALADER, WICKERSHAM & TAFT LLP

Dated: September 8, 2008

By: 

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